



both material and misleading, and because Plaintiff has had no opportunity to respond, Plaintiff respectfully asks the Court to hear oral argument concerning statute of limitations issues.

Oral argument is also likely to be helpful to the Court in clarifying both statute of limitations and “merger clause” issues. The parties dispute both when Plaintiff’s causes of action accrued and whether Plaintiff’s claims relate back to earlier complaints. With respect to Defendants’ argument that a “merger clause” requires dismissal, Plaintiff has offered seven separate responses, many of which have sub-parts. The parties do not even agree concerning governing law. Plaintiff respectfully suggests that the parties can assist the Court at oral argument by offering a path through the complexities and by focusing on whichever issues the Court considers potentially dispositive. Defendants Verio Inc., NTT America, Inc., and Genacom, Inc. have advised Plaintiff that they do not object to oral argument.<sup>1</sup>

For these reasons, Plaintiff respectfully requests that the Court enter an order pursuant to Northern District of Georgia Local Rule 7.1(E) and Paragraph II.K of this Court’s Standing Order Regarding Civil Litigation scheduling oral argument concerning Defendants’ motions to dismiss insofar as they depend on applicable

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<sup>1</sup> Although Defendant AT&T Corp. (“AT&T”) advised Plaintiff that it did not intend to seek oral argument on its motion to dismiss, AT&T has advised Plaintiff that it will respond as to whether it objects to oral argument after the filing of this request.

statutes of limitations or the “merger clause” in Plaintiff’s contract with Defendant AT&T.

Respectfully submitted this 19th day of September, 2018.

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**CERTIFICATE OF COMPLIANCE**

The undersigned certifies that the foregoing complies with Local Rule 5.1(B) regarding typefaces and fonts.

/s/Von A. DuBose

**CERTIFICATE OF SERVICE**

I hereby certify that on September 19, 2018, a true and correct copy of the foregoing **PLAINTIFF'S REQUEST FOR ORAL ARGUMENT** was electronically filed with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing and make available the same to all counsel of record.

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